

§ 20.111

IRS. The original submission described in paragraph (a) of this section will not be changed to increase the amount of the debt or to refer additional debtors.

(c) Amounts erroneously offset will be refunded by the Department or IRS in accordance with the Memorandum of Understanding.

§ 20.111 Administrative cost charges.

Costs incurred by the Department in connection with referral of debts for tax refund offset will be added to the debt and thus increase the amount of the offset.

Subpart F—Administrative Wage Garnishment

SOURCE: 80 FR 60799, Oct. 8, 2015, unless otherwise noted.

§ 20.201 Purpose.

This section provides procedures the U.S. Department of Labor may use to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent nontax debt owed to the Department. In accordance with the procedures set forth in 31 U.S.C. 3720D and 31 CFR 285.11, the Department may request that a non-Federal employer garnish the disposable pay of an individual to collect delinquent non-tax debt owed to the Department or in connection with any program administered by the Department.

§ 20.202 Scope.

(a) This subpart applies to any nontax debt owed to the U.S. Department of Labor or in connection with any program administered by the Department and to any entity that pursues recovery of such debt. The Department can enter into arrangements with other federal agencies to carry out its responsibilities under this part.

(b) This subpart shall apply notwithstanding any provision of State law.

(c) Nothing in this subpart precludes the compromise of a debt or the suspension or termination of a collection action in accordance with applicable law. See, for example, the Federal Claims Collection Standards (FCCS), 31 CFR parts 900–904.

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(d) The receipt of payments pursuant to this subpart does not preclude the Department from pursuing other debt collection remedies separately or in conjunction with administrative wage garnishment, including the offset of Federal payments, to satisfy delinquent nontax debt owed to the Department.

(e) This subpart does not apply to the collection of delinquent nontax debt owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

(f) Nothing in this subpart requires the Department to duplicate notices or administrative proceedings required by contract, this subpart, or other laws, regulations, or procedures.

§ 20.203 Definitions.

As used in this section the following definitions shall apply:

(a) The term *business day* means Monday through Friday, not including Federal legal holidays. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

(b) The term *day* means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, a Sunday, or a Federal legal holiday.

(c) The term *debt or claim* means any amount of money, funds or property that has been determined by an appropriate official of the Federal Government to be owed to the Department by an individual, including debt administered by a third party as an agent for the Federal Government.

(d) The term *debtor* means an individual who owes a delinquent nontax debt to the Department.

(e) The term *delinquent nontax debt* means any nontax debt that has not been paid by the date specified in the initial written demand for payment, or applicable agreement, unless other satisfactory payment arrangements have been made. For purposes of this section, the terms “debt” and “claim” are synonymous and refer to delinquent nontax debt.

(f) The term *Department* means the United States Department of Labor.

(g) The term *disposable pay* means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this subpart, "amounts required by law to be withheld" include amounts for deductions such as social security taxes and withholding taxes but do not include any amount withheld pursuant to a court order.

(h) The term *employer* means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments but does not include an agency of the Federal Government.

(i) The term *evidence of service* means information retained by the Department indicating the nature of the document to which it pertains, the date of mailing of the document, and to whom the document is being sent. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

(j) The term *garnishment* means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

(k) The term *hearing official* means any qualified individual, as determined by the Department.

(l) The term *withholding order* means any order for withholding or garnishment of pay issued by the Department. For purposes of this section, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

§ 20.204 General rule.

Whenever the Department determines that a delinquent debt is owed by an individual, to the Department or in connection with any program administered by the Department, the Department may initiate proceedings administratively to garnish the wages of the delinquent debtor.

§ 20.205 Notice requirements.

(a) At least 30 days before the initiation of garnishment proceedings, the Department shall mail, by first class mail to the debtor's last known address a written notice informing the debtor of:

(1) The nature and amount of the debt;

(2) The intention of the Department to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties and administrative costs are paid in full; and

(3) An explanation of the debtor's rights, including those set forth in paragraph (b) of this section, and the time frame within which the debtor may exercise his or her rights.

(b) The debtor shall be afforded the opportunity:

(1) To inspect and copy the Department's records related to the debt;

(2) To enter into a written repayment agreement with the Department under terms agreeable to the Department; and

(3) For a hearing in accordance with § 20.206 before a hearing official. The debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement under 20.206(b)(2).

(c) The Department will retain evidence of service indicating the date of mailing of the notice.

§ 20.206 Hearing.

(a) *Request for hearing.* If the debtor submits a written request for a hearing concerning the existence or amount of the debt or the terms of the repayment schedule, the Department shall provide a written or oral hearing in accordance with 31 CFR 285.11(f) before a hearing official.

(b) *Type of hearing or review.* (1) For purposes of this subpart, whenever the Department is required to afford a debtor a hearing, the Department shall provide the debtor with a reasonable opportunity for an oral hearing when the hearing official determines that the issues in dispute cannot be resolved by review of the documentary evidence, for example, when the validity of the